

at the discretion of the Assistant Secretary:

(1) Meet or exceed the Recipient's projection of jobs created;

(2) Meet or exceed the Recipient's projection of private sector capital invested;

(3) Meet or exceed target dates for Project start and completion stated at the time of Investment approval;

(4) Fulfill the proposal evaluation criteria set forth in §301.8 of this chapter; or

(5) Demonstrate other unique Project performance characteristics as determined by the Assistant Secretary.

(c) A Recipient may receive a performance award no later than three (3) years following the Project's closeout.

(d) A performance award may fund up to one hundred (100) percent of the cost of an eligible Project or any other authorized activity under PWEDA. For the purpose of meeting the non-federal share requirement of PWEDA or any other statute, the amount of a performance award shall be treated as non-federal funds.

(e) The applicable FFO will set forth the requirements, qualifications, guidelines and procedures for performance awards to be made during the applicable fiscal year, with all performance awards being subject to the availability of funds.

[70 FR 74196, Dec. 15, 2005]

**§308.3 Planning performance awards.**

(a) At the discretion of the Assistant Secretary, a Recipient of Investment Assistance awarded on or after the date of enactment of Section 216 of PWEDA located in an EDA-funded Economic Development District may receive a planning performance award in an amount not to exceed five (5) percent of the amount of the applicable Investment award if EDA determines no later than three (3) years following closeout of the Project that:

(1) The Recipient, through the Project, actively participated in the economic development activities of the District;

(2) The Project demonstrated exceptional fulfillment of one (1) or more components of, and is otherwise in accordance with, the applicable CEDS,

including any job creation or job retention requirements; and

(3) The Recipient demonstrated exceptional collaboration with federal, State and local economic development entities throughout the development of the Project.

(b) The Recipient shall use the planning performance award to increase, up to one hundred (100) percent, the federal share of the cost of a Project under this chapter.

(c) The applicable FFO may set forth additional requirements, qualifications and guidelines for planning performance awards.

**PART 309—REDISTRIBUTIONS OF INVESTMENT ASSISTANCE**

Sec.

309.1 Redistributions under parts 303, 305 and 306.

309.2 Redistributions under part 307.

AUTHORITY: 42 U.S.C. 3154c; 42 U.S.C 3211; Department of Commerce Delegation Order 10–4.

SOURCE: 70 FR 47019, Aug. 11, 2005, unless otherwise noted.

**§309.1 Redistributions under parts 303, 305 and 306.**

(a) *General.* Except as provided by paragraph (b) of this section, a Recipient of Investment Assistance under parts 303, 305 or 306 of this chapter may directly expend such Investment Assistance or, with prior EDA approval, may redistribute such Investment Assistance in the form of a subgrant to another Eligible Recipient that qualifies for Investment Assistance under the same part of this chapter as the Recipient, to fund required components of the scope of work approved for the Project. All subgrants made pursuant to this section shall be subject to the same terms and conditions applicable to the Recipient under the original Investment Assistance award and must satisfy the requirements of PWEDA and of this chapter.

(b) *Exception.* A Recipient may not make a subgrant of Investment Assistance received under parts 303 or 305 of this chapter to a for-profit entity.